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DIGEST OF WATER POLLUTION CONTROL LEGISLATION. LOUISIANA

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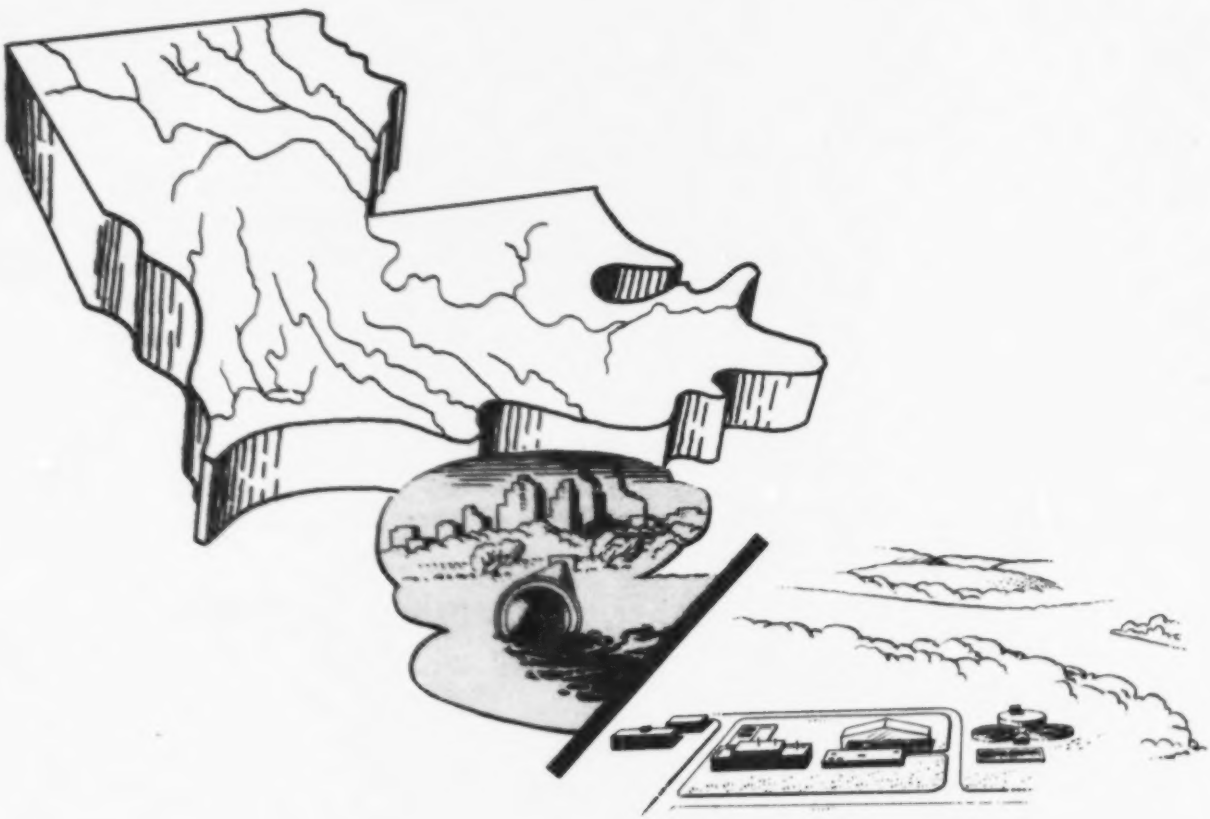

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

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Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF LOUISIANA WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The Stream Control Commission has the primary function of controlling water pollution. The Commission establishes pollution standards for the waters of the State (Sec. 56:1439)[1/].

The Commission controls waste disposal, public or private, into the waters of the State (Sec. 56:1434).

The State Board of Health, in addition to its general powers to provide for the health of the people, exercises jurisdiction over the water supplies of the State (Sec. 40:11).

The Commissioner of Conservation is authorized to make rules, regulations and orders for, among other things, the drilling, casing and plugging of wells to prevent the escape of oil or gas out of one stratum to another; the prevention of the intrusion of water into oil or gas strata; and the prevention of the pollution of fresh water supplies by oil, gas, or salt water (Sec. 30:4(C)(1)).

The Commissioner of Wildlife and Fisheries is authorized to supervise all drainage of salt water and other noxious substances into the natural streams of the State (Sec. 56:1452).

"Waters of the State" includes rivers, streams, lakes, and all other water courses and waters within the confines of the State, and all bordering waters, including the Gulf of Mexico.

1/ Citations in this digest refer to West's Louisiana Statutes Annotated (Revised Statutes, 1950), and the 1956 Cumulative Supplement thereto, unless otherwise noted.

II. ADMINISTRATIVE ORGANIZATION

A. Stream Control Commission

1. Composition and organization

The Commission consists of the Commissioner of Wildlife and Fisheries, the President of the State Board of Health, the Commissioner of Agriculture and Immigration, the Commissioner of Conservation, the Executive Director of the Department of Commerce and Industry and the Attorney General, or their authorized representatives. The Attorney General is the legal advisor of the Commission (1956 Cum. Supp., sec. 56:1431). The Commissioner of Wildlife and Fisheries or his representative is ex-officio Chairman of the Commission. The Commission elects such officers as it deems necessary, makes its own rules and regulations, and prescribes its own procedure. It meets at least once each month unless there is no business or hearing to come before it. Three members of the Commission constitute a quorum. The Chairman of the Commission or any member presiding may administer oaths to witnesses (Sec. 56:1432).

2. Powers and duties

a) Setting pollution standards

The Commission is authorized to establish pollution standards for waters of the State. The Commission may determine, in making its order, what volume of water actually flows in any stream, and the high and low water marks of waters of the State affected by waste disposal or pollution (Sec. 56:1439).

b) Enforcement

When the Commission is of the opinion that anyone is violating or is about to violate the Act, or fails to control the waste

discharged into any waters of the State, it may notify the alleged offender of such determination. The notice is served by anyone authorized to serve process or by any agent of the Commission. Within 10 days from the receipt of the notice the person must file a full report with the Commission, showing steps taken to control the waste. Thereafter the Commission makes such orders as it deems necessary. In an emergency causing or likely to cause irreparable damage, or when the public interest requires, the Commission may issue a temporary order requiring that the waste disposal be stopped pending a hearing. The temporary order is effective for not more than 5 days beyond the date of the hearing and in no event for more than 20 days from the date of its issuance (Sec. 56:1441).

Any person aggrieved by the Commission's restrictions of waste discharges, or of any order of the Commission, may file a petition with the Commission, setting forth the grounds for his complaint, and ask for a hearing. At the hearing the petitioner or any other interested person may appear and present witnesses and submit evidence. Following the hearing, the Commission issues a final order of determination which is conclusive of the matter. This order may be reviewed de novo in the District Court for the Parish of East Baton Rouge, upon petition therefor filed within 10 days after the final order of the Commission. The decree of the Court takes the place of the Order of the Commission (Sec. 56:1442).

Anyone violating the provisions of the Act or any written Order of the Commission is subject to a fine or imprisonment, or both. Each day the the violation contines is a separate offense.

The Attorney General prosecutes all cases arising out of violation of the provisions of the Act (Sec. 56:1444).

No one may discharge or permit to be discharged into any of the waters of the State any pollution of any kind that will tend to destroy fish, other aquatic life, wild or domestic animals, or fowls or be injurious to the public health or against the public welfare in violation of any rule, order or regulation of the Commission (Sec. 56:1440).

The Commission, in the name of the State, is authorized to bring any appropriate action in court that it believes necessary to carry out the provisions of the Act.(Sec. 56:1436).

The Commission by order or regulation may regulate or restrain the discharge of any polluting substance discharged into any waters of the State; it may also prohibit any discharge resulting in pollution which is unreasonable and against the public interest (Sec. 56:1439(3)(4)).

c) Conduct of investigations

The Commission is authorized to conduct such investigations as it deems necessary to carry out the provisions of the Act (Sec. 56:1435).

d) Administrative powers

The Commissioner of Wildlife and Fisheries enforces and administers the provisions of the Act and the rules, regulations and orders of the Commission (Sec. 56:1437).

The Commission is authorized to hold hearings, issue rules, regulations and orders (Secs. 56:1435, 56:1442). It may enter at

all reasonable times any private or public property for the purpose of inspecting conditions relating to the pollution of any waters of the State. The Commission may call upon any officers and employees of schools or other State agency or institution and require the furnishing of any assistance deemed necessary to the carrying out of its functions under the Act (Sec. 56:1438).

The Commission is authorized to assess against the parties in any hearing or application the costs incurred therein, including the cost of publication and promulgating orders and regulations of the Commission, provided that not more than $50.00, in addition to cost of publication, can be assessed as costs against any one person (Sec. 56:1445).

B. State Board of Health

1. Composition and organization

The Board consists of a President and 8 members, appointed by the Governor with the advice and consent of the Senate. Five of such members must be duly qualified and registered physicians, one a doctor of dental surgery, one an educator, connected with the public school system, and one a registered pharmacist. The President, prior to his appointment, must be a licensed and practicing physician in the State. The board meets regularly every 3 months, and the President can call special meetings whenever an emergency requires it. The President must call a special meeting when requested, in writing, by 3 or more members. Five members of the Board constitute a quorum for the transaction of business. The President is the Executive Officer of the Board

with the title of State Health Officer and is charged with the duty of executing the sanitary laws of the State and carrying out the rules and regulations of the Board (Secs. 40:1,4,6; 1956 Cum. Supp., sec. 40:3).

2. Powers and duties

a) General authority

The Board has exclusive jurisdiction over maritime quarantine and water supplies and waste disposal within the State (Sec. 40:11).

b) Enforcement

Whoever violates any provisions of the sanitary code is subject to a fine and/or imprisonment (Sec. 40:12).

Inspectors, officers or employees of the Board are authorized to make arrests of persons violating any rule or regulation of the Board or any provision of the sanitary code (Sec. 40:16).

c) Administrative powers

The Board is authorized to adopt and promulgate a sanitary code, which contains rules, regulations and ordinances for the improvement of the hygienic and sanitary conditions of the State (Sec. 40:11).

Members of the Board and persons authorized by it are given the right to enter, examine, and inspect all grounds, structures, public buildings, and public places in execution of a warrant issued in accordance with the constitution and laws of the State (Sec. 40:15).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful:

To contaminate a water supply. Violation carries a fine or imprisonment, or both (Sec. 14:58).

To dump or discharge into any waters or drains of the State any trees or other matter which might interfere with the drainage. Violation carries a fine (Sec. 38:214).

To knowingly and wilfully drain from any pump, reservoir, well or oil field into any natural stream used for irrigation purposes, any oil, salt water, or other noxious or poisonous wastes which would render the water unfit for irrigation purposes or would destroy fish, except during the open season between October 1 and December 31, inclusive. This prohibition does not prevent:

(1) The discharge of brine from industrial, oil or mining operations into those portions of natural streams and drains having water which has a normal salt content of more than 110 grains per gallon, to be determined by the daily average for the preceding 10 years, measured at any depth not to exceed 12½ feet or into tributaries of such streams which empty into the portions thereof which are excluded from the effect hereof; such water being hereby recognized as unfit for irrigation; and,

(2) The discharge or drainage of salt water, brine, chemical salts, chemicals, solids or any other substances from industrial, oil or mining operations into any stream having its source outside the State or into any tributary thereof.

Violation carries a fine or imprisonment and each day the violation continues is a separate offense (1956 Cum. Supp., sec. 38:216).

To abandon a well in or adjacent to a natural gas field without first placing a properly made plug both above and below the gas-producing sand, or otherwise sufficiently securing the well against the admission of water into the gas-producing sand. Violation carries a fine or imprisonment, or both (Sec. 30:34).

To knowingly and wilfully drain or permit to be drained from any pump, reservoir, well, or oil field into any natural stream of the State any oil, salt water, or noxious or poisonous gases or substances in quantities sufficient to destroy the fish therein (Sec. 56:1451).

To take fish by, among other things, poisons, stupefying substances or explosives (1956 Cum. Supp., secs. 56:323,,366).

To discharge or permit to be discharged into any waters of the State, or into drains which discharge into such waters, any substance which kills fish, or renders the water unfit for the maintenance of the normal fish life characteristic of the waters, or in any way adversely affects the interest of the State. Each day the violation continues is a separate offense (Secs. 56:322, 362).

To discharge into the Mississippi River or its tributaries, any ballast, gravel, sand or other material used for or suitable for filling or grading purposes. Violation carries a fine and imprisonment. This section is not applicable to the construction of public works or the enforcement of health ordinances (Sec. 34:840).

To deposit garbage from a vessel into the Mississippi River within the port of New Orleans, unless such garbage has been reduced to fluid form (Sec. 40:1132).

Prior written consent of the Director of Highways and the State Board of Health must be obtained before anyone is permitted to discharge industrial wastes, sewage, septic tanks effluent, or harmful matter into the side or cross ditches or upon the rights of way of the State highways. (Sec. 48:385).